

1 SCOTT N. SCHOOLS, SC SBN 9990
United States Attorney
2 JOANN M. SWANSON, CSBN 88143
Assistant United States Attorney
3 Chief, Civil Division
MELANIE L. PROCTOR, CSBN 228971
4 Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
6 Telephone: (415) 436-6730
FAX: (415) 436-6927

7 Attorneys for Defendants

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

YOUYI WU,) No. C 07-3469 JF
Plaintiff,)
v.)
ALBERTO GONZALES, United States)
Attorney General, United States Department)
of Justice; MICHAEL CHERTOFF,)
Secretary, Department of Homeland)
Security; EMILIO T. GONZALEZ,)
Director, United States Citizenship and)
Immigration Services; DAVID STILL, San)
Francisco District Director, United States)
Citizenship and Immigration Services;)
ROBERT S. MUELLER, III, Director,)
Federal Bureau of Investigations,)
Defendants.)

)

ANSWER

The Defendants hereby submit their answer to Plaintiff's Petition for Hearing on
Naturalization Application Under 8 U.S.C. § 1447(b).

1. Paragraph One consists of Plaintiff's characterization of this action for which no answer
is required; however, to the extent that such allegations are deemed to require an answer, Defendants
admit that the application is pending with the USCIS.

PARTIES

2. Defendants admit the allegations in Paragraph Two.

ANSWER
No. C 07-3469 JF

3. Defendants deny the allegations in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four.

5. Defendants admit the allegations in Paragraph Five.

6. Defendants admit the allegations in Paragraph Six with the exception that Defendants aver Rosemary Melville is the District Director for District 21.

7. Defendants admit the allegations in Paragraph Seven.

JURISDICTION

8. Paragraph Eight consists of Plaintiff's allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendant denies that this Court has jurisdiction under any of the provisions cited in Paragraph Eight.

VENUE

9. Paragraph Nine consists of Plaintiff's allegations regarding venue, to which no responsive pleading is required.

INTRADISTRICT ASSIGNMENT

10. Paragraph Ten consists of Plaintiff's allegations regarding intradistrict assignment, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants are without sufficient information or knowledge to either admit or deny that Plaintiff's allegations regarding intradistrict assignment.

CAUSE OF ACTION

11. Defendants admit the allegations in Paragraph Eleven.

12. Defendants admit the allegations in Paragraph Twelve with the exception that Defendants aver that Plaintiff was interviewed on the application, and the examination process is still ongoing.

13. Defendants are without sufficient information to admit or deny the allegations in Paragraph Thirteen.

14. Paragraph Fourteen consists of Plaintiff's conclusions of law for which no answer is required; however, to the extent that such allegations are deemed to require an answer, Defendants

1 deny the allegations contained in this paragraph.

2 **PRAYER**

3 15. Paragraphs Fifteen consists of Plaintiff's prayer for relief, to which no admission or
4 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this
5 paragraph.

6 **FIRST AFFIRMATIVE DEFENSE**

7 The Court lacks jurisdiction over the subject matter of this action.

8 **SECOND AFFIRMATIVE DEFENSE**

9 The Complaint fails to state a claim against the Defendants upon which relief can be granted.

10 **THIRD AFFIRMATIVE DEFENSE**

11 No acts or omissions by the United States or its employees were the proximate cause of any
12 injury or damages to the Plaintiff.

13 **FOURTH AFFIRMATIVE DEFENSE**

14 At all times alleged in the complaint, Defendant was acting with good faith, with
15 justification, and pursuant to authority.

16 **FIFTH AFFIRMATIVE DEFENSE**

17 The Defendant is processing the application referred to in the Complaint to the extent
18 possible at this time. Accordingly, no relief as prayed for is warranted.

19 WHEREFORE, Defendants prays for relief as follows:

20 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's Petition
21 with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief as it deems
22 just and proper under the circumstances.

23 Date: September 7, 2007

Respectfully submitted,

24 SCOTT N. SCHOOLS
United States Attorney

26 /s/
27 MELANIE L. PROCTOR
Assistant United States Attorney
28 Attorneys for Defendants